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September 21, 2017

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Notice of *Ex Parte* Presentation
*WT Docket No. 17-79, Accelerating Wireless Broadband Deployment by
Removing Barriers to Infrastructure Investment; WC Docket No. 17-84,
Accelerating Wireline Broadband Deployment by Removing Barriers to
Infrastructure Investment*

Dear Ms. Dortch:

On September 19, 2017, David Crawford and William Hackett of T-Mobile; Christine Crowe and Craig Gilmore of Wilkinson Barker Knauer, LLP, counsel to T-Mobile; and I met with Aaron Goldschmidt, Garnet Hanly, Erica Rosenberg, Dana Shaffer, David Sieradzki, Jill Springer, Jeffrey Steinberg, Donald Stockdale, Suzanne Tetreault, and Mary Claire York of the Wireless Telecommunications Bureau; and Adam Copeland, Lisa Hone, and Zach Ross of the Wireline Competition Bureau, regarding the above-referenced proceedings.

We discussed the obstacles that T-Mobile has encountered in siting wireless facilities, including specific examples of obstacles, and the actions the Commission should take to address those issues. The discussion was consistent with T-Mobile's Comments and Reply Comments filed in the proceedings, and the attached handout, which T-Mobile provided to the staff.

Pursuant to Section 1.1206 of the Commission's rules, we are filing an electronic copy of this letter in the above-captioned docket.

Respectfully submitted,

/s/ Cathleen A. Massey

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William J. Hackett
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cc: Adam Copeland
Aaron Goldschmidt
Garnet Hanly
Lisa Hone
Erica Rosenberg
Zach Ross
Dana Shaffer
David Sieradzki
Jill Springer
Jeffrey Steinberg
Donald Stockdale
Suzanne Tetreault
Mary Claire York



Accelerating Broadband Deployment by Removing Barriers to Infrastructure Investment

WT Docket No. 17-79; WC Docket No. 17-84

September 19, 2017



Overview

- Introduction
- T-Mobile Deployment
- State/Local Barriers
- NEPA/Historic Review
- Conclusion



- T-Mobile strongly supports removing barriers to infrastructure deployment
- Delivery of 5G will require deployment of dense wireless networks and countless new small cells
- While there has been some progress, federal, state, and local siting requirements still stand in the way
- Goal today is not to repeat comments, but to provide specific examples of barriers and focus on why action matters to the company and consumers

- T-Mobile is on the front lines of infrastructure deployment
 - Expansion and network upgrades and modernization are essential for the company, consumers, and the economy
- Our national wireless network is growing rapidly
 - Presently contains approximately 66,000 cell sites, including macro sites, small cells, and DAS nodes
 - Approximately 6,000 of these are located within public ROWs in 24 states, expected to grow to 50,000+ nationwide in five years
- We are quickly working to utilize 600 MHz spectrum
 - T-Mobile spent nearly \$8 billion to acquire this spectrum in the Broadcast Incentive Auction

- T-Mobile's deployment plans underscore the importance of removing barriers to both
 - The deployment of new sites, including small cells; and
 - Upgrades at existing base stations
- The following are some of the recent examples of barriers T-Mobile is facing
 - State and local barriers
 - Environmental, historic, and tribal issues
- These examples demonstrate why prompt FCC action is needed

State & Local Barriers



- **Barrier:**
 - Local siting and zoning regulations and requirements are impeding deployment of infrastructure
- **Recommendation:**
 - Clarify a regulation effectively prohibits service contrary to Section 253 if it materially inhibits or creates a substantial barrier to telecommunications
 - Declare that carriers need not show an actual, explicit prohibition
- **Example:**
 - Undergrounding - Minneapolis's current code allows the City to include, as a condition of approval, a requirement that base stations be undergrounded

- **Barrier:**
 - Some local regulations require that a provider prove it needs a site at a particular location
 - These “significant gap” in coverage or “least intrusive means” requirements make no sense for modern network deployments
- **Recommendation:**
 - Clarify that these need-based analyses have the effect of prohibiting deployment, contrary to Section 332(c)(7)
- **Example:**
 - Carriers are being asked to prove why one technology works over another – e.g., the jurisdictions contend that a macro site is the least intrusive means in response to an application for a small cell deployment

- **Barrier:**
 - Many local governments impose exorbitant one-time application fees, annual recurring fees, franchise or use fees, and/or gross revenue fees
 - These fees are unreasonable and unrelated to actual cost recovery
- **Recommendation:**
 - Limit ROW charges and application fees to actual ROW management and application processing costs
- **Example:**
 - Cottleville, MO now requires each wireless carrier to annually pay \$6,000 per wireless antenna (previously \$6,000 per site)
 - As a result, the City claims T-Mobile owes \$72,000 v. \$12,000
 - a 500% percent increase – just to operate two facilities

- **Barrier:**
 - Localities either adopt formal moratoria or simply fail to act on applications
- **Recommendation:**
 - Declare that moratoria on the filing, receiving, processing, or approval of requests to construct or modify facilities prohibit or effectively prohibit service
- **Example:**
 - In Florida there are currently 26 jurisdictions in moratoria. Most have been in moratoria for over 180 days. Two have been in moratoria for over a year

- **Barrier:**
 - Some localities base the grant or denial of applications on unnamed or undefined discretionary factors like aesthetics
 - These factors are frequently only applied to wireless facilities
- **Recommendation:**
 - Declare that procedures affording a locality unfettered discretion constitute an effective prohibition
 - Clarify that applying more onerous regulations to wireless ROW deployments is discriminatory
- **Example:**
 - San Francisco singles out wireless ROW facilities for discretionary “aesthetic” review.
 - Litigation is now in its 7th year

Unnecessary Delays

- **Barrier:**
 - Many local governments fail to timely process siting applications, despite the FCC's shot clocks
- **Recommendations:**
 - Interpret Section 332 shot clocks to include a deemed granted remedy
 - Accelerate those shot clocks to 60 days for collocations and 90 days for other siting requests
 - Voice view it is appropriate for courts to treat non-compliance with shot clocks (as revised) as a significant factor weighing in favor of injunctive relief
- **Example:**
 - T-Mobile has found that for 30% of recently proposed sites, the locality failed to act in violation of the relevant shot clock
 - Our experience is that litigation, even by summary judgment, imposes at least a 6-9 month delay

Environmental, Historic, and Tribal Issues



- Barriers:
 - Historic and Tribal review of small cells can significantly delay deployment
 - FCC approval of floodplain EAs often takes several months
- Recommendations:
 - Expand exclusions for small wireless facility deployments or exempt them from environmental, historic and Tribal review altogether
 - Revise the FCC environmental rules so that an EA is not required to construct in a floodplain if the site will be built above the base flood elevation
- Examples:
 - Proposed small cell builds in major metropolitan areas
 - T-Mobile has never received a denial of a floodplain EA

- **Barrier:**
 - Costly and time-consuming Tribal review diverts resources from additional projects and slows deployment
- **Recommendation:**
 - Clarify that payment of fees to Tribes is only required when Tribes provide consulting services at the request of an applicant
 - Standardize the Tribal information packet
 - Improve TCNS to provide transparency and predictability in the Tribal review process
- **Example:**
 - Houston small cell build where tribal fees could reach \$8 million

- These are just some of the most recent examples of barriers wireless providers face every day
- Given the robust record (now complete), FCC should act quickly to reduce these barriers and speed deployment